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<p style="text-align: right;">Page 178</p> <p>1 the wrong light.</p> <p>2 Isn't it true that you don't know why</p> <p>3 there is a different number on Exhibit 3 than there</p> <p>4 is on Exhibit 2? You were simply trying to give</p> <p>5 what to you would be the most plausible</p> <p>6 explanation, but you don't actually know whether</p> <p>7 that's the answer or not?</p> <p>8 A. That's correct.</p> <p>9 Q. And you were not suggesting and it</p> <p>10 would be wrong for anyone to suggest that someone</p> <p>11 at Grace on Exhibit 2 took the 28.88 number and</p> <p>12 artificially and dishonestly simply changed it for</p> <p>13 the file copy to 6.00 or 6.09? You weren't</p> <p>14 suggesting that?</p> <p>15 A. Not at all, no.</p> <p>16 Q. When you report results back to the</p> <p>17 plant on a time weighted average, were you the</p> <p>18 individual that performed whatever arithmetic one</p> <p>19 had to perform in order to convert the readings to</p> <p>20 an 8-hour time weighted average?</p> <p>21 A. On many occasions I would perform that</p> <p>22 arithmetic. There were times when that arithmetic</p> <p>23 might have been performed by an industrial</p> <p>24 hygienist working for me.</p> <p>25 Q. And assuming you had an operation which</p>	<p style="text-align: right;">Page 180</p> <p>1 neighborhood of 45 years.</p> <p>2 Q. Could you, sir, turn to Exhibit 4.</p> <p>3 These are samples from Weedsport?</p> <p>4 A. Yes.</p> <p>5 Q. And you approved another Request for</p> <p>6 Technical Service?</p> <p>7 A. That's correct.</p> <p>8 Q. Fred Eaton was the requestor?</p> <p>9 A. Yes.</p> <p>10 Q. And he and Mr. Wood, Mr. Wolter and</p> <p>11 others get copies of the report?</p> <p>12 A. Yes.</p> <p>13 Q. And in the summary it talks about six</p> <p>14 samples exceeding the limit.</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Does that indicate to you that there</p> <p>18 must have been an OSHA limit or some limit as of</p> <p>19 May 19, 1977?</p> <p>20 A. Yes. I believe that the limit they're</p> <p>21 referring to is the two fibers per cc, which was in</p> <p>22 existence at that time.</p> <p>23 Q. Now, the two fibers per cc limit was an</p> <p>24 8-hour time weighted average; correct?</p> <p>25 A. That's correct.</p>
<p style="text-align: right;">Page 179</p> <p>1 was monitored for 20 minutes and produced certain</p> <p>2 fiber level air sample readings and that for that</p> <p>3 eight-hour period that was the end of the</p> <p>4 operation, does one take the direct air sample</p> <p>5 readings and divide by 480 minutes in order to get</p> <p>6 an 8-hour time weighted average? Is that the math?</p> <p>7 A. You're very close to the math.</p> <p>8 You would take the sample result,</p> <p>9 multiply it by the time of that sample and divide</p> <p>10 it by 480 and get the eight-hour TWA for that</p> <p>11 individual sample, assuming that the employee works</p> <p>12 with no other exposure during that.</p> <p>13 Q. And was it your understanding back in</p> <p>14 those good old days that the time weighted average</p> <p>15 was something applicable to eight hours a day, five</p> <p>16 days a week, 52 weeks a year for 45 years under</p> <p>17 OSHA standards?</p> <p>18 A. Under OSHA standards it would be eight</p> <p>19 hours a day, 40 hours a week for a working</p> <p>20 lifetime.</p> <p>21 Q. Do you know whether that working</p> <p>22 lifetime is 45 years or 50 years? Do you remember?</p> <p>23 A. I don't think I've ever been asked that</p> <p>24 question before.</p> <p>25 A working career would be in the</p>	<p style="text-align: right;">Page 181</p> <p>1 Q. Are the results reported in this</p> <p>2 exhibit based upon an 8-hour time weighted average?</p> <p>3 A. No, they are not.</p> <p>4 Q. Was the testing of this material from</p> <p>5 Weedsport simulated attic tests?</p> <p>6 A. Yes.</p> <p>7 Q. And I thought you testified that the</p> <p>8 OSHA standards relating to employee exposures in</p> <p>9 the workplace should not be used with respect to</p> <p>10 attics where you might have kids or the elderly or</p> <p>11 something else.</p> <p>12 Was that the import of your testimony?</p> <p>13 A. I think it's very important to</p> <p>14 understand that when comparing these numbers to a</p> <p>15 standard, which is an occupational standard, that</p> <p>16 you are limiting the usefulness of that standard</p> <p>17 only to people who would be paid by an employer to</p> <p>18 install this as an employee at somebody's location.</p> <p>19 Or whoever is being paid, they're an employee of an</p> <p>20 employer. That is when the OSHA standard applies.</p> <p>21 OSHA standards do not apply to</p> <p>22 homeowners or to children or to a nonemployee.</p> <p>23 They also do not apply to public sector workers,</p> <p>24 which includes firemen, postal workers, meter</p> <p>25 maids. It only applies to the general industry at</p>

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<p style="text-align: right;">Page 182</p> <p>1 Section Codes 21 to 29.</p> <p>2 Q. Mr. Hamilton, are you suggesting by</p> <p>3 that answer that all of the simulations and the</p> <p>4 tests that Mr. Eaton devised and then conducted</p> <p>5 assumed that you wouldn't have a homeowner</p> <p>6 installing the product?</p> <p>7 A. No.</p> <p>8 Q. The test assumed, did they not, you</p> <p>9 would have a homeowner installing the product?</p> <p>10 A. I don't know that.</p> <p>11 Q. Who would know that?</p> <p>12 A. The person that sells it.</p> <p>13 Q. And you know that this material was</p> <p>14 sold for homeowners to install themselves and also</p> <p>15 sold for contractors to install it, don't you?</p> <p>16 A. That's correct.</p> <p>17 Q. And so you know that these tests at</p> <p>18 least with respect to homeowners would not involve</p> <p>19 OSHA-covered employees; isn't that correct?</p> <p>20 A. If the homeowner installs it, the OSHA</p> <p>21 standards are irrelevant.</p> <p>22 Q. And with respect to Hamilton Deposition</p> <p>23 Exhibit 4, there is a report that six samples</p> <p>24 exceeded the limit.</p> <p>25 Do you see that?</p>	<p style="text-align: right;">Page 184</p> <p>1 do not believe that the material that was being</p> <p>2 tested was production material.</p> <p>3 Q. This isn't something at the time one</p> <p>4 could go to a local hardware store and buy with all</p> <p>5 these various formulations?</p> <p>6 A. That's correct.</p> <p>7 Q. And can you tell what size attic fill</p> <p>8 was being used in these formulations?</p> <p>9 A. I don't see a reference to size of the</p> <p>10 material. It may be on here. I may be missing it.</p> <p>11 Q. It could be, sir. I would have</p> <p>12 addressed your attention to it.</p> <p>13 A. I just don't see it here.</p> <p>14 Q. I don't either.</p> <p>15 A. It's very unusual for Fred to do that.</p> <p>16 He was always thorough with his notes.</p> <p>17 Q. Am I correct, sir, that with respect to</p> <p>18 Hamilton Deposition Exhibit 4, that looking at the</p> <p>19 exhibit itself one cannot tell whether or not the</p> <p>20 fibers reported under "Lab Evaluation" are asbestos</p> <p>21 fibers or nonasbestos fibers?</p> <p>22 A. That's correct.</p> <p>23 Q. Am I correct that one can tell that</p> <p>24 whatever is being reported is not being reported on</p> <p>25 an 8-hour time weighted average?</p>
<p style="text-align: right;">Page 183</p> <p>1 A. Correct.</p> <p>2 Q. What is the limit, the OSHA standard?</p> <p>3 A. I believe that's what they mean. Two</p> <p>4 fibers per cc OSHA limit as 8-hour TWA for employee</p> <p>5 exposure to asbestos.</p> <p>6 Q. Mr. Hamilton, I would represent to you</p> <p>7 that I've attempted to go through our collection of</p> <p>8 documents which were provided to counsel for the</p> <p>9 plaintiffs attempting to identify anything with</p> <p>10 your name on it, to or from, and I will represent</p> <p>11 to you that I have not found one memorandum or</p> <p>12 report from you telling the Construction Products</p> <p>13 Division or Julie Yang or M.M. Hoey or anyone else</p> <p>14 that it is inappropriate to use the OSHA standard</p> <p>15 when testing simulated attic material.</p> <p>16 Do you remember ever writing such a</p> <p>17 recommendation or making such a criticism in</p> <p>18 writing?</p> <p>19 A. No.</p> <p>20 Q. With respect to Hamilton Deposition</p> <p>21 Exhibit 4, am I correct that this material being</p> <p>22 tested in this simulated attic test is not what you</p> <p>23 and Mr. Turkewitz referred to as production</p> <p>24 material?</p> <p>25 A. At the time that this test was done I</p>	<p style="text-align: right;">Page 185</p> <p>1 A. That's correct.</p> <p>2 Q. Turn, sir, if you would, please, to</p> <p>3 Exhibit 5, Hamilton Exhibit 5.</p> <p>4 This is a Request for Technical</p> <p>5 Assistance dated June 3, 1977, evaluating attic</p> <p>6 test samples from Weedsport; correct?</p> <p>7 A. Yes.</p> <p>8 Q. You approved the Request for Technical</p> <p>9 Assistance; correct?</p> <p>10 A. Yes.</p> <p>11 Q. Copies of the report go to a number of</p> <p>12 people including E.S. Wood and others; correct?</p> <p>13 A. Correct.</p> <p>14 Q. The laboratory on Page 3 is reporting</p> <p>15 that all samples contain more than two fibers per</p> <p>16 cc; correct?</p> <p>17 A. Correct.</p> <p>18 Q. Does that tell you that at least the</p> <p>19 laboratory is using as a standard the OSHA standard</p> <p>20 of two fibers per cc?</p> <p>21 A. Yes.</p> <p>22 Q. However, I think you and I have agreed</p> <p>23 that standard is really on an 8-hour time weighted</p> <p>24 basis at that time; correct?</p> <p>25 A. That's correct.</p>

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<p style="text-align: right;">Page 186</p> <p>1 Q. Do you recall when you received your 2 copy of Hamilton Exhibit 5 writing a memorandum 3 telling anyone that it would be inappropriate to 4 use the OSHA standard for simulated attic tests if 5 one assumed homeowners were going to do it 6 themselves?</p> <p>7 A. I don't see where you're headed on 8 this, and I'm going to answer your question a 9 little lengthy here, if you just bear with me.</p> <p>10 I did not set up these tests. I only 11 approved the request for technical assistance to 12 get the samples analyzed. These were not collected 13 by me; therefore, I don't write reports on these.</p> <p>14 If I had been requested to write a 15 report based on the OSHA standards, I would have 16 said that we had to calculate an 8-hour time 17 weighted average. I would have done that 18 calculation for them and reported that out. I was 19 not requested to write anything with regard to 20 these data. These came across my desk. I reviewed 21 them and they were filed.</p> <p>22 Now, somewhere within CPD they may have 23 had a goal of getting all of their samples on -- 24 whatever sample they collected, below 2. That may 25 have been a goal, and therefore the laboratory was</p>	<p style="text-align: right;">Page 188</p> <p>1 doubt that you were either the requester or the 2 approver with respect to these requests for 3 technical service?</p> <p>4 A. That's correct.</p> <p>5 Q. And at that time you were -- at that 6 time were you a certified industrial hygienist?</p> <p>7 A. No.</p> <p>8 Q. What were you at that time?</p> <p>9 A. I was an industrial hygienist.</p> <p>10 Q. But not certified?</p> <p>11 A. Correct.</p> <p>12 Q. And there is no doubt that you received 13 copies of the reports for the requests which you 14 had requested or approved?</p> <p>15 A. Correct.</p> <p>16 Q. And there is no doubt -- you read 17 these?</p> <p>18 A. That's correct.</p> <p>19 Q. For whatever reason you didn't write 20 any reports along the basis and you have just 21 discussed, but it's not because you didn't get 22 copies of these reports?</p> <p>23 A. That's correct.</p> <p>24 Q. Turning, sir, if you would to Hamilton 25 Deposition Exhibit 6.</p>
<p style="text-align: right;">Page 187</p> <p>1 reporting out that goal in relation to the results. 2 I have no way of knowing whether 3 somebody had requested me to write a report on any 4 of these samples and compare it to an OSHA 5 standard. Whatever that standard was, I would have 6 been very clear in my calculations.</p> <p>7 Are we looking at an excursion limit? 8 Are we looking at .1, .2? Are we looking at two 9 fibers per cc? Whatever that standard was, if it 10 was an 8-hour TWA, I would have calculated 8-hour 11 time weighted averages. But since I don't know 12 what the goal of this sampling was -- I was not 13 privy to that -- I don't know whether comparing it 14 to two was appropriate or not based on what CPD 15 managers wanted to see.</p> <p>16 What I do know is that they 17 consistently used that level and they talked about 18 it, and I never saw any document from anybody at 19 CPD saying: Hey, that's an 8-hour time weighted 20 average. Why are we comparing it to two?</p> <p>21 So I didn't write anything because I 22 wasn't requested to and they didn't write anything 23 because they didn't know any better. I guess 24 that's the answer to the question.</p> <p>25 Q. In any event, Mr. Hamilton, there is no</p>	<p style="text-align: right;">Page 189</p> <p>1 These are samples from simulated attic 2 tests; is that correct?</p> <p>3 A. That's correct.</p> <p>4 Q. We don't have on this exhibit, do we, 5 the actual lab reports, the air sampling reports?</p> <p>6 A. That's correct.</p> <p>7 Q. We do know that there is reference to 8 two fibers per cc of air?</p> <p>9 A. That's correct.</p> <p>10 Q. We assume -- or you knew at the time 11 that was a reference to the OSHA standard?</p> <p>12 A. I believe so.</p> <p>13 Q. But that is not a reference to the OSHA 14 time weighted average standard? Strike that.</p> <p>15 But at least up to this point we have 16 not seen any air sampling results reported as 17 8-hour time weighted average; isn't that correct?</p> <p>18 A. That's correct.</p> <p>19 Q. We don't have the results for this, but 20 would your assumption be that whatever the results 21 were that are not attached to this report, they 22 would not be 8-hour time weighted average results 23 based on what you've seen so far?</p> <p>24 A. That's correct.</p> <p>25 Q. Once again -- and if I asked this,</p>

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1 I apologize. — what was Eaton's job as contrasted 2 with your job and as contrasted with Wood's job? 3       A. Fred worked in the Construction 4 Products Division Engineering Department. He was 5 an engineer working there for Dick Snyder, 6 I believe, and his job was to work on plant 7 projects involving construction. That's what I 8 understood his job to be. He was called in to do 9 this work which involved testing of ZAI, so for a 10 long period of time he was involved in this rather 11 closely.	1 page indicates this is Libby No. 3, does it not? 2       A. That's correct. 3       Q. Now go to the Air Sampling Record 4 Sheet. 5       Would you agree with me that whatever 6 material was being tested here is not production 7 material that came out of bags of ZAI from your 8 local hardware store? 9       A. That's most likely the case, yes. 10      Q. This is different formulations of 11 different stuff being tested in this test; correct? 12      A. That's correct. 13      Q. By Mr. Eaton? 14      A. That's correct. 15      Q. Hamilton Deposition No. 8 doesn't 16 appear to have your name on it, but your sense 17 based upon the procedure is it would have crossed 18 your desk. 19      A. That's correct. 20      Q. And these are 12 simulated attic test 21 samples from Weedsport; correct? 22      A. Correct. 23      Q. And the lab analysis appears to be 24 using two fibers per cc of air as the standard? 25      A. That's correct.
1 and his sampling technique and making sure that he 2 was able to get samples which would be readable. 3       Q. Did you consider him a careful, 4 conscientious worker? 5       A. Oh, yes. 6       Q. Was he honest? 7       A. As far as I know, yes. 8       Q. Was he the man primarily responsible in 9 this time frame for testing ZAI? 10      A. Well, he was the only person that was 11 giving us samples for ZAI. So I have to answer 12 yes, as far as I know he was the only person. 13      Q. Turn, if you would, to Exhibit 7. 14      These are eight simulated attic test 15 samples from Weedsport; correct? 16      A. Yes. 17      Q. In addition to you receiving a copy did 18 Eaton and Wood and others receive copies? 19      A. Yes. 20      Q. Again, the report seems to deal with as 21 a standard two fibers per cc of air, does it not? 22      A. Yes. 23      Q. Looking at the Air Sampling Record, 24 would you agree with me -- strike that. 25       Go back to the first page. The first	1       Q. And this appears to be, does it not, 2 Libby No. 3? 3       A. Yes. 4       Q. With fines bound and unbound, returned 5 and unreturned? 6       A. Yes. 7       Q. Would you agree with me that this is 8 not production material one would get out of a bag 9 at your local hardware store? 10      A. I would agree that this — I'm not sure 11 about the first four samples there as being 12 production material or not. It's unbound Libby 13 control material with no binder that could very 14 well have been production material. 15      Q. But you can't tell from this document 16 whether it is or it isn't? 17      A. No, I can't. All I know is that they 18 call it "control", and usually when they're talking 19 about control they're talking about a production 20 material. 21      Q. That control would be No. 3 Libby, not 22 Libby No. 1 or No. 2? 23      A. That's correct. 24      Q. And the second page you know is not 25 something you would buy at your hardware store

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<p>1 coming out of a bag?</p> <p>2 A. I believe in 1977 material that had</p> <p>3 been screened and had a binder on it was not</p> <p>4 production material.</p> <p>5 Q. Mr. Hamilton, I have looked — and I</p> <p>6 have samples here maybe I could show you.</p> <p>7 I have looked at your reports to the</p> <p>8 various plants based upon environmental surveys.</p> <p>9 I would represent to you that almost every time you</p> <p>10 refer in a report back to the plant on ZAI, you</p> <p>11 identify it as an operation using Libby No. 1 or</p> <p>12 Libby No. 2. I never found many or any examples</p> <p>13 where you report back using Libby No. 3 as a ZAI</p> <p>14 operation.</p> <p>15 Is that consistent with your</p> <p>16 recollection as to what you were seeing from the</p> <p>17 plants as the source material for ZAI, primarily</p> <p>18 Libby No. 1 and sometimes Libby No. 2 and only</p> <p>19 occasionally Libby No. 3?</p> <p>20 A. I would say it's consistent with what</p> <p>21 I recall. It's really difficult to remember</p> <p>22 everything that went on because there were so many</p> <p>23 plants we went to, but I do notice that the attic</p> <p>24 testing did involve Libby 3. I thought that most</p> <p>25 of the ZAI was Libby 1 and 2. Maybe there was some</p>	<p>1 levels didn't seem to be improved, the fiber counts</p> <p>2 were drastically reduced.</p> <p>3 Do you remember giving reports like</p> <p>4 that?</p> <p>5 A. Oh, I may have, yes. That was very</p> <p>6 possible.</p> <p>7 Q. And so that the visible dust levels</p> <p>8 simply wouldn't tell you as an industrial hygienist</p> <p>9 what the fiber count in the air would be?</p> <p>10 A. It generally wasn't a good indicator,</p> <p>11 because one day the dust would be high and the</p> <p>12 fiber would be low and the next day would be the</p> <p>13 opposite. It really wasn't doing us any good.</p> <p>14 Q. If you look at Hamilton Deposition</p> <p>15 Exhibit 9, these are samples from Weedsport, it</p> <p>16 appears to me, based upon the comment section that</p> <p>17 this is Libby No. 2.</p> <p>18 A. Yes.</p> <p>19 Q. Do you agree with that?</p> <p>20 A. Yes.</p> <p>21 Q. And then can you tell whether this is</p> <p>22 production material or engineering sample material?</p> <p>23 A. I would suspect that some of this could</p> <p>24 be production material because they're talking</p> <p>25 about it's unscreened with the cyclone fines</p>
<p style="text-align: right;">Page 195</p> <p>1 3 that was sent out as ZAI. I don't know, but I</p> <p>2 know that they were testing it as part of this</p> <p>3 attic test.</p> <p>4 Q. Isn't it true, Mr. Hamilton, that when</p> <p>5 you reviewed recently these various tests</p> <p>6 Mr. Turkewitz sent you, you were kind of surprised</p> <p>7 to see so much testing of No. 3 rather than testing</p> <p>8 of Libby 1 and Libby 2? Didn't that surprise you?</p> <p>9 A. Oh, it may have come as a surprise.</p> <p>10 I guess I never really thought of Libby 3 as being</p> <p>11 a good product to put into an attic, and there was</p> <p>12 a lot more testing on 3 in there that I recall.</p> <p>13 So maybe "surprise" is the right word. I'm not</p> <p>14 sure.</p> <p>15 Q. As an industrial hygienist for Grace</p> <p>16 you did advise the plants, did you not, that</p> <p>17 visible dust levels really wouldn't tell the plants</p> <p>18 anything with respect to fiber counts?</p> <p>19 A. Yes. I think we had a pretty good feel</p> <p>20 that — I mean, I think it was general agreement</p> <p>21 that the visible dust level wasn't a good indicator</p> <p>22 of fiber count level. We tried to stay away from</p> <p>23 that.</p> <p>24 Q. Indeed on occasions you reported that</p> <p>25 even though in certain tests the visible dust</p>	<p style="text-align: right;">Page 197</p> <p>1 returned to the product. I believe that might have</p> <p>2 been a production material, but I'm not qualified</p> <p>3 to make that statement.</p> <p>4 Q. What I need you to tell me is whether</p> <p>5 you know whether this is production material or</p> <p>6 not. I realize it may be and it may not be.</p> <p>7 A. No, I don't know.</p> <p>8 Q. Do you know whether — strike.</p> <p>9 You would agree with me that the lab</p> <p>10 evaluation results are not reported as time</p> <p>11 weighted averages.</p> <p>12 A. That's correct.</p> <p>13 Q. And you would agree with me that</p> <p>14 whatever is being reported there, there is nothing</p> <p>15 on this exhibit indicating whether what was found</p> <p>16 was asbestos fibers or not asbestos fibers?</p> <p>17 A. That's correct.</p> <p>18 MR. RESTIVO: I would like this marked</p> <p>19 as Hamilton Deposition Exhibit 25.</p> <p>20 (Defendant's Exhibit Hamilton 25, Memo,</p> <p>21 1/18/78, to R.E. Ward from T.E. Hamilton, marked</p> <p>22 for identification.)</p> <p>23 BY MR. RESTIVO:</p> <p>24 Q. Mr. Hamilton, I show you what has been</p> <p>25 marked Hamilton Deposition Exhibit No. 25, which</p>

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<p style="text-align: right;">Page 198</p> <p>1 purports to be a memorandum from you to R.E. Ward,    2 West Chicago, dated January 18, 1978, subject: Air    3 Sampling Results; is that correct?</p> <p>4 A. That's correct.</p> <p>5 Q. Do you recognize on the first page that    6 to be your signature?</p> <p>7 A. Yes.</p> <p>8 Q. I'll ask you the question: Do you    9 remember writing this specific report on    10 January 18, 1978?</p> <p>11 A. No.</p> <p>12 Q. I would represent to you that this is a    13 sample of the sorts of reports that I've seen with    14 your name on it, all of which I'm not going to    15 spend the next week showing you.</p> <p>16 Would you agree this is the format your    17 reports took?</p> <p>18 A. Yes.</p> <p>19 Q. Taking a look at your report, are you    20 reporting -- do you remember who R.E. Ward is?</p> <p>21 A. He was the plant manager in the West    22 Chicago plant.</p> <p>23 Q. And you went to the West Chicago plant    24 and took air sampling of certain operations and    25 then reported back to him the results?</p>	<p style="text-align: right;">Page 200</p> <p>1 A. That's correct.</p> <p>2 Q. And that was the standard and practice    3 which you used in reporting back to the plants;    4 correct?</p> <p>5 A. That's correct.</p> <p>6 Q. And this is an example when I talk to    7 you about where you were looking at Employee Soto,    8 No. 2.</p> <p>9 A. Yes.</p> <p>10 Q. And do you see where it refers to    11 "attic"?</p> <p>12 A. Yes.</p> <p>13 Q. And there it references Libby No. 2,    14 does it not?</p> <p>15 A. Yes.</p> <p>16 Q. And what I was stating or representing    17 to you was in most of the reports that I've seen    18 that you sent to the plants, when you refer to    19 "attic", you're almost always referring to Libby 1    20 or Libby 2.</p> <p>21 Is that consistent with your    22 recollection?</p> <p>23 A. Yes.</p> <p>24 Q. And did you indicate to the plant    25 manager -- I'm in the paragraph under the names --</p>
<p style="text-align: right;">Page 199</p> <p>1 A. That's correct.</p> <p>2 Q. You did that with a whole bunch of    3 plants; correct?</p> <p>4 A. Yes.</p> <p>5 Q. And you reported back to him based upon    6 an OSHA limit of two fibers per cc; correct?</p> <p>7 A. Correct.</p> <p>8 Q. And you send to him lab results --    9 I'm sorry. -- the Air Sampling Record Sheet, do    10 you not?</p> <p>11 A. Yes.</p> <p>12 Q. And do the Air Sampling Record Sheets    13 report air sampling readings on an 8-hour time    14 weighted average basis?</p> <p>15 A. No.</p> <p>16 Q. Those are just direct air sampling    17 readings; correct?</p> <p>18 A. That's correct.</p> <p>19 Q. For whatever period of time the pump is    20 on; correct?</p> <p>21 A. That's correct.</p> <p>22 Q. You, however, or someone on your staff    23 does a calculation that takes those direct readings    24 and converts them to time weighted averages in your    25 report; is that correct?</p>	<p style="text-align: right;">Page 201</p> <p>1 "It appears that some high exposures can occur for    2 short periods of time, but when averaged over the    3 entire workday there is no overexposure"?</p> <p>4 A. That's correct.</p> <p>5 Q. And that's the purpose and the effect    6 of using the OSHA time weighted average in doing    7 that calculation?</p> <p>8 A. Yes.</p> <p>9 Q. And there would be any number of    10 reports where you would have expressed that view    11 back to the plant in memorandums like this;    12 correct?</p> <p>13 A. This is a fairly standard letter.</p> <p>14 Q. Am I correct, Mr. Hamilton, that you    15 personally have never done any testing on in-place    16 attic fill material --</p> <p>17 A. That's correct.</p> <p>18 Q. -- using either PCM or TEM?</p> <p>19 A. That's correct.</p> <p>20 Q. Have you seen the results of any such    21 in-place testing?</p> <p>22 A. Could you describe for me what type of    23 testing you're talking about.</p> <p>24 Q. Where someone might send consultants    25 into an attic, set up air pumps, disturb, or to use</p>

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<p style="text-align: right;">Page 202</p> <p>1 your term, manipulate the material and try to 2 determine what the results are. 3 A. I've never done that in a home. 4 I don't recall seeing anybody else's results -- 5 I never saw a report from anybody where they have 6 done that either. 7 Q. Have you ever talked to anybody about 8 doing that? 9 A. Yes. We talked about that at Grace on 10 occasion because there was -- as I said earlier, 11 there was some concern on my part that just going 12 into a home that had that attic insulation and 13 doing a sample didn't tell you the whole story. 14 There was going to be times when that stuff -- when 15 the attic insulation was disturbed, and we did not 16 know what the potential exposures would be and 17 under what situations that might occur. 18 We had an idea of the types of 19 situations where it could occur and I've described 20 some of them earlier today, but we never did any 21 testing on that that I know of. 22 Q. Sir, since leaving Grace's employ have 23 you heard from anyone about any types of testing 24 done in an attic or attics when material was 25 disturbed or manipulated?</p>	<p style="text-align: right;">Page 204</p> <p>1 I was asked how long did I think it would take, and 2 I said I think it would take approximately two days 3 to put in approximately a hundred bags. 4 Q. Am I correct that no one ever told you 5 that? 6 A. No. 7 Q. No, I'm not correct? Someone did tell 8 you that? 9 A. I'm sorry. Let me say that the right 10 way. 11 No one told me that. I thought about 12 it. I thought about how long it would take to do 13 it. If I were trying to do an attic of a certain 14 -- of a house that took a hundred bags, how long 15 would it take me to get all that done, and thinking 16 about how long it took three guys to move 49 bags 17 in and assuming that those three guys are -- that's 18 their job and they get paid by the hour. They're 19 going to be much more efficient than a homeowner 20 is. He's going to take his time. 21 So a homeowner isn't just going to cut 22 open bags and dump them and cut open bags and dump 23 them. He's going to take his time and he's going 24 to be careful about it. So the period of time in 25 my mind that it would take a homeowner to do a</p>
<p style="text-align: right;">Page 203</p> <p>1 A. No, I have not. 2 Q. With respect to these conversations you 3 may have had perhaps at lunch about in-place 4 material and disturbing it, did you ever compare 5 the manipulation of a fan repair and the other 6 examples you gave with the initial manipulation 7 involved in installing the material from scratch? 8 A. I've never measured that and I've never 9 seen measurements of it. 10 Q. You didn't have any assumptions that 11 any fan repair would not involve as much 12 disturbance or manipulation of material as pouring 13 an attic from scratch? You have no view on it? 14 A. Oh, I think my view on that would be 15 that pouring the attic would be more disturbance 16 than repairing a fan in the attic, and certainly 17 you would have more opportunity for exposure in 18 terms of duration and level of a fiber during the 19 installation versus a repair to a fan in an attic. 20 Q. You, I thought, stated under oath that 21 individuals told you that it would take two days 22 for one person to insulate that person's attic with 23 attic fill material. I thought that's what you 24 said. 25 A. I didn't say that people told me that.</p>	<p style="text-align: right;">Page 205</p> <p>1 hundred bags would be more like two days to get the 2 bags from the truck into the attic, spread it, 3 clean up and get the bags out and finish. 4 Q. Mr. Hamilton, I understand that's your 5 opinion. 6 A. Nobody told me that. 7 Q. I'm trying to find out from whence that 8 opinion comes. 9 It doesn't come from you personally 10 having performed that task in an attic? 11 A. That's correct. 12 Q. It doesn't come from Fred Eaton or 13 anyone at Grace telling you that it would take two 14 days to totally insulate an attic with ZAI? 15 A. That's correct. 16 Q. Where it comes from is your review 17 recently of these documents which in some instances 18 give time frames for some employees and your 19 extrapolation of that to an individual in a home? 20 A. Yes. I think it also comes from my 21 experience of actually applying insulation to an 22 attic. Not ZAI, but fiberglass. I have done that. 23 I insulated an attic in a home, my home in 24 Johnsford, with fiberglass, and I know how long it 25 took. It took two days for us to get all those</p>

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<p style="text-align: right;">Page 206</p> <p>1 rolls up into the attic, roll them out and cut 2 them, place them.</p> <p>3 So not only is it a personal experience 4 of using fiberglass and walking around in an attic, 5 but then if I had to do bags, I don't think it 6 would be that much different. So I am 7 extrapolating from what I see here. I'm also 8 drawing on my own personal experience from having 9 done my own attic.</p> <p>10 Q. But you are not basing it on anything 11 Fred Eaton or anyone at Grace told you?</p> <p>12 A. That's correct.</p> <p>13 Q. You talked a little bit about these 14 AIHA Web sites, did you not, with Mr. Turkewitz?</p> <p>15 A. I didn't talk to Mr. Turkewitz about an 16 AIHA web site at all.</p> <p>17 Q. What was that discussion about the 18 World Trade Center?</p> <p>19 A. Oh, that was a Yahoo user group. That 20 is not the AIHA web site.</p> <p>21 Q. For what it's worth, it's listed under 22 Yahoo as AIHA Industrial Hygiene Group; but in any 23 event, you and I are talking about the same Yahoo 24 material?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 208</p> <p>1 test material?</p> <p>2 A. No, I cannot.</p> <p>3 Q. You can tell that it was screened?</p> <p>4 A. Yes.</p> <p>5 Q. You can tell that all cyclone fines 6 were pulled?</p> <p>7 A. Yes.</p> <p>8 Q. You can tell how many bags were poured?</p> <p>9 A. Yes.</p> <p>10 Q. How many?</p> <p>11 A. There was 25 3-cubic foot bags tested 12 except 25AS, which was 24 bags.</p> <p>13 Q. 24 bags were poured; correct?</p> <p>14 A. That's what it says.</p> <p>15 Q. In how much time?</p> <p>16 A. Well, I guess you would have to add up 17 those times there, 15-1/2 and 17 and 16 and 14.</p> <p>18 Q. In about an hour?</p> <p>19 A. Approximately an hour.</p> <p>20 Q. Turn, sir, if you would to Hamilton 21 Deposition Exhibit 11.</p> <p>22 More simulated attic tests; is that 23 correct?</p> <p>24 A. Yes.</p> <p>25 Q. Can you tell from the Air Sampling</p>
<p style="text-align: right;">Page 207</p> <p>1 Q. And in that material you wrote, did you 2 not, that the amount of tremolite in the expanded 3 vermiculite was always less than 0.1 percent?</p> <p>4 A. From what I remember, that's pretty 5 much what I recall.</p> <p>6 Q. The first question is: Did you write 7 that?</p> <p>8 A. I did write that, yes.</p> <p>9 Q. The second question is: Do you believe 10 that to be true sitting here today under oath?</p> <p>11 A. From what I recall from my experience 12 having been there for the most part, that's still 13 true today.</p> <p>14 Q. No. 3: Did you write that because that 15 under the OSHA rules Grace was not required to list 16 tremolite asbestos as a constituent or a 17 contaminant?</p> <p>18 A. That's correct. I wrote that.</p> <p>19 Q. Take a look, sir, at Hamilton 20 Deposition Exhibit 10.</p> <p>21 These are test samples — are they more 22 test samples from Weedsport?</p> <p>23 A. Correct.</p> <p>24 Q. Looking at the Air Sampling Sheet, can 25 you tell whether this is production material or</p>	<p style="text-align: right;">Page 209</p> <p>1 Records whether that is production material or not?</p> <p>2 A. No.</p> <p>3 Q. Can you tell how much was poured?</p> <p>4 A. I don't see the number of bags written 5 down here.</p> <p>6 Q. Nor do I.</p> <p>7 Take a look at Exhibit 12. More attic 8 test samples from Weedsport?</p> <p>9 A. Yes.</p> <p>10 Q. Do you agree with me that this appears 11 to be Libby No. 3?</p> <p>12 A. Yes.</p> <p>13 Q. Do you agree with me that this appears 14 to be test material, not production material?</p> <p>15 A. Yes.</p> <p>16 Q. Do you agree with me that the results 17 are not expressed in 8-hour time weighted average?</p> <p>18 A. That's correct.</p> <p>19 Q. Do you agree with me that whatever the 20 results are you can't tell from this exhibit 21 whether whatever was found was asbestos or 22 nonasbestos?</p> <p>23 A. That's correct.</p> <p>24 Q. Can you tell how many bags were used in 25 this attic fill test?</p>

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1 A. It looks like 99 bags were used.		1 A. Yes.	
2 Q. And can you tell how long it took to		2 Q. Does this tell you based upon your	
3 use 99 bags of attic fill in this test?		3 knowledge of Grace and being employed at the time	
4 A. Six -- about 80 minutes.		4 that this indicates Eaton is continuing to work on	
5 Q. Let me show you, sir --		5 various formulations and testing them in simulated	
6 MR. RESTIVO: Let's go off the record.		6 attic tests?	
7 THE VIDEOTAPE SPECIALIST: Off the		7 A. Yes.	
8 record. The time is approximately 4:39.		8 Q. Does this indicate to you that as of _	
9 (Short recess taken.)		9 August of 1977 the lab is still treating OSHA as	
10 THE VIDEOTAPE SPECIALIST: Back on the		10 providing a limit?	
11 record. The time is approximately 4:45 p.m.		11 A. In the summary they don't say what the	
12 BY MR. RESTIVO:		12 limit was, but they say that 28 samples exceeded	
13 Q. Mr. Hamilton, I would address your		13 the limit.	
14 attention to Hamilton Deposition Exhibit 13.		14 Q. And in the first page, which you	
15 These are more attic test samples from		15 approved, they make reference to the OSHA asbestos	
16 Weedsport?		16 standard under "Significance", do they not?	
17 A. Correct.		17 A. Yes.	
18 Q. It looks like they are testing Libby		18 Q. And this appears to be Libby No. 3 that	
19 No. 3 screened.		19 they've tested?	
20 A. Yes.		20 A. Yes.	
21 Q. Is that production material, do you		21 Q. How many bags?	
22 know?		22 A. 101 bags of product per cubic foot,	
23 A. I don't know.		23 nine and a half 4-cubic screened and 4-cubic foot	
24 Q. Can you tell me how many bags were		24 of cyclone fine.	
25 poured in this simulated attic?		25 Q. And this is Libby No. 3 that they did	
Page 211		Page 213	
1 A. Well, it says 25 3-cubic foot bags, and		1 certain things with and tested certain	
2 there is a line drawn down among the sample		2 formulations?	
3 numbers. I'm not sure if that's 25 total or 25 for		3 A. That's correct.	
4 each sample.		4 Q. Do you agree with me that the results	
5 Q. You can't tell looking at this whether		5 in this document don't tell you whether what was	
6 or not the total bags applied here were 25 or a		6 found was asbestos or nonasbestos?	
7 hundred because the line is ambiguous at best?		7 A. That's correct.	
8 A. But I would assume that it was a		8 Q. You agree with me that the results are	
9 hundred bags.		9 not reported in 8-hour time weighted average?	
10 Q. And the employee, Charlie, poured a		10 A. That's correct.	
11 hundred bags himself in this test?		11 Q. Take a look quickly, sir, at	
12 A. That's correct.		12 Exhibit 15.	
13 Q. And how long did it take him to do		13 You would agree with me, would you not,	
14 that, a little more than an hour?		14 that those simulated attic tests are dealing with	
15 A. 34 and 37. So yes, a little over an		15 Libby No. 3?	
16 hour. An hour and ten minutes, an hour and 11		16 A. Yes.	
17 minutes.		17 Q. You would agree with me that it appears	
18 Q. Take a look, sir, at Hamilton No. 14.		18 to be material from various plants that certain	
19 These are more test samples from		19 experimental work was done to? I take that back.	
20 Weedsport.		20 Does this appear to be material from	
21 A. Correct.		21 three different -- on the first page of the Air	
22 Q. And again, Eaton and Wood and others		22 Sampling Record Sheet, three different plants?	
23 get copies of this; correct?		23 A. Yes. It's from three different plants.	
24 A. Correct.		24 Q. And can you tell whether or not Eaton	
25 Q. And Eaton is the requester; correct?		25 did anything to that material?	

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1 A. It says that it's screened through a 2 14-mesh screen and it's unbound. 3 Q. And on the simulated attic test how 4 many bags of Libby No. 3 were poured in this attic 5 test on the first page of the Air Sampling Record? 6 A. 75 bags. 7 Q. And how long did it take, less than an 8 hour? 9 A. Less than an hour. 10 Q. Hamilton Exhibit 16, sir. 11 More simulated attic test samples from 12 Weedsport? 13 A. Yes. 14 Q. Would you agree with me that -- strike 15 that. 16 Can you tell what size this is? 17 A. It says it's Libby 3. 18 Q. And where does it say that? 19 A. At the top of Page -- of the Air 20 Sampling Record page. 21 MR. TURKEWITZ: What number is that? 22 MR. RESTIVO: 16. 23 A. It says it right here. 24 Q. And can you tell whether this Libby 25 No. 3 is production material or material that Eaton	1 lab is reporting fibers per cc in lab evaluation; 2 correct? 3 A. That's correct. 4 Q. You would agree with me, would you not, 5 that those results are not being reported on an 6 8-hour time weighted basis? 7 A. Yes. 8 Q. You would agree with me that whatever 9 these results are reporting, one can't tell from 10 this exhibit whether the fibers reported are 11 asbestos or not asbestos? 12 A. That's correct. 13 Q. In any event, you and I agree that 14 whatever they were testing was not production 15 material? 16 A. Not that I know of. 17 Q. Exhibit 18 is a home attic fill job in 18 Savannah, New York; is that correct? 19 A. Yes. 20 Q. And they're pouring attic fill? 21 A. Correct. 22 Q. The attic fill they're pouring is 23 screened Libby No. 3 with 14-inch mesh with all 24 fines removed; correct? 25 A. Correct.
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1 performed some processes on? 2 A. I don't know. 3 Q. Hamilton Deposition Exhibit 17, 4 Mr. Hamilton. 5 These are further simulated attic tests 6 from Weedsport and it now involves the document 7 that you have talked about as super clean; correct? 8 A. That's correct. 9 Q. Did you testify that to your knowledge 10 super clean was never production material? 11 A. That's correct. 12 Q. Would you agree with me that the ores 13 involved appear to be Libby 1 and Libby 2? 14 A. Yes. 15 Q. Do you agree with me that one of the 16 things Eaton was doing was shoveling up material? 17 I'm looking at the note on the third 18 page of the Air Sampling Record Sheet. 19 A. Yes. 20 Q. Would you agree with me that Exhibit 17 21 reports on an employee by the name of Duke 22 shoveling up L1 attic fill and putting it into 23 plastic bags? Is that correct? 24 A. That's correct. 25 Q. And with respect to that process, the	1 Q. That was not production material was 2 it, to the best of your knowledge? 3 A. I don't know. 4 Q. And in any event, you and I aren't 5 quite sure what the results are because they're 6 hard to read on this exhibit? 7 MR. TURKEWITZ: Objection. 8 MR. RESTIVO: Strike that. 9 BY MR. RESTIVO: 10 Q. Did you read the lab evaluation results 11 for all of the activities tested? 12 A. I will attempt to do that for you with 13 the idea that we know that all of these are greater 14 than 7.5 because that's what they say in the 15 summary. The legibility on my document, I believe 16 the first sample PR1 -- 17 Q. I don't want you to read them to me. 18 My question was could you read them, 19 and you saying you're could. 20 A. I'll do what I can. 21 Q. My next question is: Whatever those 22 numbers are, can you read enough to agree with me 23 they are not 8-hour time weighted average? 24 A. Correct. 25 Q. Whatever those numbers are that you can

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1 read, do you agree with me that this document 2 doesn't disclose whether they are asbestos fibers 3 or nonasbestos fibers? 4 A. That's correct. 5 Q. Take a look at Hamilton Exhibit 19. 6 These are home attic fill tests using 7 the super clean sample formulation? 8 A. That is correct. 9 Q. To the best of your knowledge, super 10 clean was not a production product? 11 A. That's correct. 12 Q. What is your Exhibit 22, Mr. Hamilton? 13 A. 22? 14 Q. Yes. Because I have two 22's, and that 15 can't be right. 16 A. 22 is Environmental Solutions. 17 Q. What is your 23? 18 A. My 23 is a letter, Subject: Use of 19 Building 5. 20 Q. And what is your 24? 21 A. 24 is the St. Louis Post-Dispatch. 22 Q. And do you have a 25? 23 A. 25 is the exhibit you produced for the 24 letter to — I think it's Bob Ward of West Chicago. 25 Q. Would you agree, Mr. Hamilton, from	1 Wolter? 2 A. Yes, I did. 3 Q. Did you form an opinion as to his 4 competence and credibility? 5 A. Yes, I did. 6 Q. What was that opinion? 7 A. I felt that he was very credible and 8 very competent, and I enjoyed working with Jack. 9 Q. Would it be fair to say based upon your 10 testimony that there were individuals in an 11 organization as large as Grace that you didn't 12 enjoy working with as much as you did with other 13 individuals? 14 A. Of course. 15 Q. I would represent to you, Mr. Hamilton, 16 that I could not find any document authored by you 17 in the Grace files which we have shared with 18 counsel for plaintiffs in which you recommended at 19 least in writing discontinuance of the ZAI product. 20 Did you in fact make such a 21 recommendation in writing? I seem to not have been 22 able to find the document. 23 A. No, I did not. 24 Q. Other than the document you briefly 25 looked at with Mr. Turkewitz I could not find any
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1 your perspective that what Fred Eaton was 2 attempting to do was to come up with the best 3 possible product he could after testing? 4 A. Yes. 5 Q. I may have asked you this. 6 Do you know whether or not there is any 7 time limit today under the OSHA excursion? And if 8 I asked you, please answer again because I can't 9 remember. 10 A. We mentioned the fact that it's a level 11 that should not be exceeded at any time, and to 12 measure it requires a collective sample over a 13 period of time of approximately 15 minutes. 14 Q. But it's your understanding it doesn't 15 mean you need to be exposed for that 15 minutes 16 above the excursion level? 17 A. That's correct. 18 Q. It will go quicker if I just ask again. 19 I may have asked you, but where did 20 Jack Wolter fit in? I know I asked you about Eaton 21 and Locke. I can't remember if I asked you about 22 where Wolter fit in in this program. 23 A. I understood that he was the 24 manufacturing manager. 25 Q. Did you have occasion to work with	1 document in which you recommended any warning 2 labels on ZAI. 3 Did you make any such written 4 recommendations? 5 A. No, I did not. 6 Q. When you had the discussion about 7 potential or possible air monitoring for schools 8 and Grace setting up a program -- do you remember 9 testifying about that? 10 A. Yes. 11 Q. — was there any discussion at that 12 time about having the test evaluated by use of TEM 13 rather than PCM? 14 A. I believe there was discussion about 15 it. 16 Q. Did you make any recommendations in 17 that regard? 18 A. I don't recall making recommendations 19 specifically about using TEM. My discussion in 20 that regard was more along the line of using PCM in 21 the schools — using PCM methods in the schools in 22 my opinion. I was trying to find the value in 23 doing that, and I asked questions along that line. 24 Q. Did you express an opinion about the 25 value of using TEM in the schools?

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<p style="text-align: right;">Page 222</p> <p>1 A. I may have. I don't recall.</p> <p>2 Q. Did you testify on direct that in your 3 opinion it was outrageous not to put a label on 4 bags with ZAI?</p> <p>5 A. I think it was outrageous to sell ZAI 6 to people knowing that the use of that product 7 could result in an exposure to asbestos or fiber 8 without any label on it at all and no intention of 9 putting a label on it.</p> <p>10 Q. I would represent to you that in 11 looking through all the Grace documents we have 12 which we've shared with the plaintiffs, were 13 documents containing your name, I could find no 14 recommendation in writing or statement in writing 15 that stated or implied as wrong or outrageous not 16 to put a label on to warn of asbestos.</p> <p>17 Did you make any such writing?</p> <p>18 A. At the time that I was employed at 19 W.R. Grace writing that kind of a letter would have 20 resulted in my unemployment with W.R. Grace.</p> <p>21 The culture of Construction Products 22 Division was not to put labels on anything, and 23 that label was far from years within PCD. I worked 24 for ICG. I worked for the Industrial Chemicals 25 Group, and nobody from my group that I know of</p>	<p style="text-align: right;">Page 224</p> <p>1 BY MR. RESTIVO:</p> <p>2 Q. Mr. Hamilton, I show you what has been 3 marked as Hamilton Deposition Exhibit 26 which 4 purports to be a letter dated April 1, 1980, from 5 E.S. Wood of Grace to Mr. Dale Ray of the Consumer 6 Product Safety Commission with attachments; is that 7 correct?</p> <p>8 A. That is correct.</p> <p>9 Q. Is Exhibit 26 one of the documents you 10 were shown by Mr. Turkewitz but which was not 11 marked as an exhibit during your direct 12 examination?</p> <p>13 A. That is correct.</p> <p>14 Q. Is this one of the documents you looked 15 at however briefly in preparation for your 16 deposition?</p> <p>17 A. I did not review this to prepare for my 18 deposition. This document was shown to me prior to 19 the deposition, but I didn't use this for the 20 deposition.</p> <p>21 Q. Did you read it when it was shown to 22 you?</p> <p>23 A. I read maybe two or three paragraphs of 24 this.</p> <p>25 Q. Prior to it being shown to you last</p>
<p style="text-align: right;">Page 223</p> <p>1 other than maybe Peter Kostic would ever put that 2 in there; wouldn't even think of writing a letter 3 like that.</p> <p>4 Q. I take it that your answer is no, you 5 never put in a writing that statement.</p> <p>6 A. That's correct.</p> <p>7 Q. Thank you.</p> <p>8 A. That's correct, because it would have 9 been the end of me at Grace.</p> <p>10 Q. When did you leave W.R. Grace?</p> <p>11 A. In January of 1987.</p> <p>12 Q. Why did you leave?</p> <p>13 A. I left because I felt my career was 14 finished there and I wanted to find a better 15 opportunity.</p> <p>16 Q. You voluntarily resigned, or were you 17 terminated?</p> <p>18 A. I voluntarily resigned.</p> <p>19 Q. And you did that because your career 20 had plateaued at least in your judgment and you 21 wanted to do something else?</p> <p>22 A. That's correct.</p> <p>23 (Defendant's Exhibit Hamilton 26, 24 letter, 4/1/80, to D. Ray from E.W. Wood, marked 25 for identification.)</p>	<p style="text-align: right;">Page 225</p> <p>1 night or this morning had you seen this document 2 before?</p> <p>3 A. I do not recall ever seeing this 4 document before, no.</p> <p>5 Q. Would you agree with me that in this 6 document Grace is reporting to the Consumer 7 Products Safety Commission on certain tests done on 8 certain products?</p> <p>9 A. That's what it appears to be.</p> <p>10 Q. As a long time employee of Grace is 11 that the way you would read the letter reflected in 12 Exhibit 26?</p> <p>13 A. This letter says that it was done at 14 the request of the Consumer Product Safety 15 Commission to set the details of Grace fiber 16 exposure test methodology and test results and 17 indicates the nature of Grace's fiber reduction 18 efforts.</p> <p>19 Q. And does this letter report on a number 20 of products on Page 2 which are consumer products?</p> <p>21 A. Yes.</p> <p>22 Q. Terra-Lite?</p> <p>23 A. Yes.</p> <p>24 Q. Redi-Earth?</p> <p>25 A. Yes.</p>

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1	Q. Lightweight fertilizer?	1 Q. You are correct, sir.
2	A. Yes.	2 Four homes are listed, three types?
3	Q. Zonolite attic insulation?	3 A. Correct.
4	A. Yes.	4 Q. Two Colonials, one Cape and one ranch;
5	Q. Were you involved in any of the testing	5 correct?
6	with respect to the first three products?	6 A. Yes.
7	A. I don't do — I don't recall doing	7 Q. Do you see the number of bags of
8	testing on those first three products. I may have,	8 material utilized in the attics of those homes?
9	but I don't recall it.	9 A. Yes.
10	Q. I think you've talked a lot today about	10 Q. Based upon your knowledge and
11	your involvement in the testing of the fourth	11 experience do you have any reason to doubt that's
12	product; correct?	12 how many bags it took to insulate the attics in
13	A. Yes.	13 those three types of homes?
14	Q. With respect to whether or not fibers	14 A. I had no reason to doubt the data.
15	were detected, does Grace disclose to the Consumer	15 Q. Does the data indicate air
16	Products Safety Commission that in installation	16 concentrations — I'm sorry. — fiber
17	some fibers are detected during installation?	17 concentrations before the attic insulation was
18	A. Yes.	18 installed and after it was installed?
19	Q. On Page 3 does Grace relate — strike	19 A. That's correct.
20	that.	20 Q. And does Footnote 3 indicate the length
21	Annex A provides the Consumer Products	21 of time for the after installation air sampling?
22	Safety Commission with test data; is that correct?	22 A. Yes. It does list some time in regard
23	MR. TURKEWITZ: Where are you,	23 to that.
24	Mr. Restivo?	24 Q. And in one instance it was six hours
25	MR. RESTIVO: Annex A is the fifth page	25 after installation; correct?
	Page 227	Page 229
1	of Exhibit 26.	1 A. That's correct.
2	A. Annex A shows test data. Correct.	2 Q. And in another it was nine years after
3	Q. Incidentally, back up one page.	3 installation; correct?
4	E.S. Wood is the Wood that we've talked	4 A. That's correct.
5	about so far in this deposition?	5 Q. Turn to Page 6, sir.
6	A. Yes.	6 When Mr. Turkewitz showed you what is
7	Q. Chip Wood —	7 now Exhibit 26, did you get a chance to look at
8	A. Correct.	8 Page 6?
9	Q. — is E.S. Wood; correct?	9 A. I don't recall seeing this chart
10	A. That's correct.	10 before. I did not look at this page.
11	Q. And F.W. Eaton is Fred Eaton, the Fred	11 Q. Page 6 reports, does it not, both
12	Eaton we've already talked about; correct?	12 absolute fiber counts and TWA fiber counts, does it
13	A. Correct.	13 not?
14	Q. The next page is then test data, is it	14 A. That's correct.
15	not, test protocol and test data.	15 Q. And Footnote 5 recognizes, does it not,
16	A. Correct.	16 that some of the direct fiber counts exceed two
17	Q. I would like you to go down to —	17 fibers per cc?
18	I believe it's Page 5 of test data on results.	18 A. That's correct.
19	Do you see the results page?	19 Q. And Footnote 5 discloses that to the
20	A. Yes.	20 Consumer Products Safety Commission, does it not?
21	Q. And does this indicate to you that four	21 A. Yes.
22	types of homes were involved in installation of	22 Q. And then Footnote 5 talks about
23	attic insulation?	23 frequency of exposure and the fact that at least
24	A. That's what it says. Well, there was a	24 with respect to installation of attic fill, that is
25	Colonial ranch.	25 not something that would occur more than once or

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<p style="text-align: right;">Page 230</p> <p>1 twice in a lifetime? Twice in a lifetime.    2 I'm sorry.    3 A. They said twice in a lifetime.    4 Correct.    5 Q. And based upon your knowledge and    6 experience working at Grace would it be your    7 understanding that Fred Eaton, the recipient of    8 that document, would have been the person who    9 conducted the various tests on the various products    10 reported in Exhibit 26?</p> <p>11 MR. TURKEWITZ: Objection.    12 A. I don't know. I don't know the answer    13 to that. I don't know who did that work.    14 Q. During the period of time you were at    15 Grace who did such work other than Fred Eaton?    16 A. Well, I know that during 1977 when most    17 of this work was done Fred Eaton was doing it.    18 I don't know whether that job was handed over to    19 somebody at a later date because this memo came out    20 in some cases three -- more than three years later.    21 So since they don't say when they did    22 this, I don't have any idea of who did that    23 monitoring. It may have been Fred Eaton. I don't    24 know.    25 Q. My question is, sir. Do you know</p>	<p style="text-align: right;">Page 232</p> <p>1 with end use of the product is greatly reduced now . . .    2 that the dust is controlled?    3 MR. TURKEWITZ: I'm going to object.    4 Mr. Restivo, if you want to show him    5 the document, I think that's probably the proper    6 way rather than referring to it and asking him    7 questions without him seeing that.    8 MR. RESTIVO: I agree with that.    9 I will show him the document.    10 BY MR. RESTIVO:    11 Q. Do you remember seeing it?    12 I'm going to show you the document, but    13 do you remember based upon your review last night    14 or this morning telling that to Mr. S.M. Gillott on    15 or about December 29, 1982?    16 A. I may have said that. Correct.    17 (Defendant's Exhibit Hamilton 27, memo,    18 9/29/82, to S.M. Gillott from T.E. Hamilton, marked    19 for identification.)    20 BY MR. RESTIVO:    21 Q. I show you, sir, what has been marked    22 Hamilton Deposition Exhibit 27.    23 MR. RESTIVO: Off the record.    24 THE VIDEOTAPE SPECIALIST: Off the    25 record. The time is approximately 5:25.</p>
<p style="text-align: right;">Page 231</p> <p>1 sitting here today whether anyone replaced Fred    2 Eaton in his job of performing procedures on    3 consumer products such as attic fill after 1977?    4 A. No, I don't.    5 Q. After 1978?    6 A. No, I don't.    7 Q. After 1979?    8 A. No, I don't.    9 Q. Mr. Hamilton, you talked about looking    10 at a document in which you communicated with the    11 Canadian operation vis-a-vis labels; correct?    12 A. That's correct.    13 Q. That document was not marked during    14 your direct examination; correct?    15 A. That's correct.    16 Q. You didn't use that document in    17 preparation for your deposition? You simply looked    18 at it when it was shown to you; correct?    19 A. That's correct.    20 Q. You commented on a statement that sales    21 literature and bag labels referring to vermiculite    22 as nonirritating; is that correct?    23 A. I may have.    24 Q. You advised Canada, did you not, that    25 the label is much more accurate and the problems</p>	<p style="text-align: right;">Page 233</p> <p>1 (Discussion off the record.)    2 THE VIDEOTAPE SPECIALIST: Back on the    3 record. The time is approximately 5:26.    4 BY MR. RESTIVO:    5 Q. Mr. Hamilton, Hamilton Deposition    6 Exhibit 27 purports to be a confidential    7 communication from you to Mr. S.M. Gillott dated    8 September 29, 1982; is that correct?    9 A. This looks like my letter. Correct.    10 Q. And who or what was Mr. Gillott?    11 A. I believe he was our product manager in    12 the Ajax facility.    13 Q. And where was the Ajax facility?    14 A. It was in Ontario, Canada.    15 Q. And who was Mr. B.D. Pollack?    16 A. Brian Pollack, I believe, was the    17 manufacturing manager for the Canadian operation.    18 Q. Also based in --    19 A. Ajax.    20 Q. Also based in Canada?    21 A. Yes.    22 Q. Is that your signature on Hamilton    23 Deposition Exhibit 27?    24 A. Yes, it is.    25 Q. Mr. Hamilton, have you been asked by</p>

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<p style="text-align: right;">Page 234</p> <p>1 the plaintiffs' attorney to testify live and in 2 person at any trial or hearing on this matter 3 pending right now in the bankruptcy court?</p> <p>4 A. They have not asked me to testify 5 there. They have mentioned that there may be a 6 trial and they want me to, but they have not asked 7 me to do it.</p> <p>8 Q. Have you expressed a view as to whether 9 you would be willing to come live at a trial or 10 whether your preference is for the parties to 11 simply use this recorded videotaped deposition 12 today?</p> <p>13 A. I have not expressed any opinion in 14 that regard to them or to anybody.</p> <p>15 Q. Do you have an opinion in that regard?</p> <p>16 A. Not at the moment.</p> <p>17 MR. RESTIVO: That's all I have. Thank 18 you, sir.</p> <p style="text-align: center;">EXAMINATION</p> <p>19 BY MR. TURKEWITZ:</p> <p>21 Q. Mr. Hamilton, looking at Exhibit 27, 22 can you tell us what the context for this memo that 23 you wrote was back in 1982.</p> <p>24 A. I believe the context of this was the 25 fact that there were many different regulations in</p>	<p style="text-align: right;">Page 236</p> <p>1 that meant on the skin, and that's what it was 2 intended to mean. Because they were looking at 3 sometimes people breathed in the dust and they were 4 irritated to the dust, and I was trying to make it 5 clear to them that it was for comparison to 6 fiberglass, which is irritating.</p> <p>7 Q. Would it have been misleading to have 8 led someone to believe that it was nonirritating 9 for someone to breathe in?</p> <p>10 MR. RESTIVO: Objection to the form. 11 Leading.</p> <p>12 A. I think when you say that something is 13 nonirritating, people have a certain level of 14 expectation. That level of expectation may include 15 nonirritating to the lungs, but we knew that this 16 product created — even the super clean material 17 created a dust level that could be irritating to 18 some people, and in fact most of the time people 19 wore respirators when they were applying the attic 20 installation.</p> <p>21 I would be willing to — I would place 22 a bet that all of the attic simulation tests were 23 done with people wearing respirators. I don't 24 think that they did that without the respirators 25 on, but I would have to talk to Fred Eaton about</p>
<p style="text-align: right;">Page 235</p> <p>1 Canada. They were different from us in the States 2 because Canadian regulations tended to be 3 provincial rather than federal, and I had taken it 4 upon myself to become very familiar with the 5 different regulations in the various provinces of 6 Canada and how they impacted the operations. They 7 were entirely different in Winnipeg than they were 8 in Edmonton, and what we had to do for training 9 and medical monitoring and air monitoring were 10 different from province to province. Some things 11 were the same, but the result was that the people 12 in Canada came to rely on me to help them interpret 13 their regulations.</p> <p>14 I believe probably what happened here 15 was that the manufacturing manager had a question 16 about the labeling that he took to the product 17 manager who then sent a letter to me or — I don't 18 remember a letter. It may have been a letter; it 19 may have been a phone call, but they — it could be 20 either way, but they contacted me and asked me to 21 give them an opinion about currently, especially as 22 it referred to the term "nonirritating".</p> <p>23 So my paragraph about it is used in the 24 sales literature and on our labels. We said that 25 vermiculite was not irritating, and essentially</p>	<p style="text-align: right;">Page 237</p> <p>1 that, and I don't even know where he is. 2 To answer your question, I think to say 3 that it's nonirritating, I think this represented a 4 problem, and this is what the people in Canada were 5 trying to grapple with. Because it says 6 nonirritating on the bag, but it may be irritating 7 if you breathe it in. The label we were using then 8 said nonirritating, so we were trying to 9 distinguish ourselves from fiberglass which is 10 irritating to the skin.</p> <p>11 And you can see in my third paragraph 12 here I said I don't want to overlook the underlying 13 question there, and that is: Is the label strong 14 enough? And I said that I can't answer that 15 question.</p> <p>16 This was 1982 and I was not going to 17 get involved at all with how labels should be 18 designed for CPD products. At that time Steve 19 Venuti was there and that was his job. He was 20 writing public safety — Material Safety Data 21 Sheets and so forth. I believe Venuti had the job 22 then in 1982 or around that time. So there were 23 other people who would be involved with designing 24 the label. That was not my job.</p> <p>25 Q. Now, when you're referring to this</p>

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<p>1 middle paragraph, would you read that paragraph.</p> <p>2 A. It says: However, I don't want to</p> <p>3 overlook the question you are really asking. Is</p> <p>4 the label strong enough to warrant a consumer of</p> <p>5 the proper precautions to use, especially since the</p> <p>6 product (Attic) is not screened or bound in Canada?</p> <p>7 And I said only the lawyers are allowed to answer</p> <p>8 that question. I wouldn't touch that.</p> <p>9 Q. And you were referring to the asbestos</p> <p>10 in the material in that paragraph?</p> <p>11 MR. RESTIVO: Object to the form.</p> <p>12 A. I was alluding to it just as everybody</p> <p>13 did who danced around this issue. I didn't say it;</p> <p>14 I didn't put it in writing, but clearly I was</p> <p>15 dancing around the issue of precautions to be used.</p> <p>16 Q. And you were basically putting it off</p> <p>17 saying only a lawyer was allowed to answer that</p> <p>18 question?</p> <p>19 A. That's right. If I tried to answer</p> <p>20 that question, I would have got my head handed to</p> <p>21 me on a platter.</p> <p>22 Q. What would you have said if you were to</p> <p>23 answer that question honestly in this regard?</p> <p>24 A. At this time I would have said the</p> <p>25 label should say that there — for the end user,</p>	<p>1 vermiculite on its edge.</p> <p>2 Q. And that was the purpose for</p> <p>3 discriminatory testing?</p> <p>4 A. I believe so, and I was in favor of</p> <p>5 that. I was strongly in favor of discriminatory</p> <p>6 counting because I felt from a health standpoint</p> <p>7 I didn't want them to count vermiculite as fibers.</p> <p>8 It just didn't make any sense. Why report out --</p> <p>9 you know, if you're going to do that, why not have</p> <p>10 two columns, two columns in the report that says:</p> <p>11 Fiber count according to NIOSH method and strict</p> <p>12 counting record and another column that says:</p> <p>13 Discriminatory counting.</p> <p>14 They didn't put the first one on there.</p> <p>15 They put the latter one on there.</p> <p>16 Q. Are you aware of any samples while you</p> <p>17 were at Grace being sent out for analysis by TEM,</p> <p>18 any air samples?</p> <p>19 A. I became aware of that in regards to</p> <p>20 samples that were collected for the school</p> <p>21 litigation.</p> <p>22 Q. And how did those TEM samples compare</p> <p>23 to the PCM samples that you're aware of?</p> <p>24 A. I don't know. I never saw any of those</p> <p>25 results. Those would not go to my desk. As you</p>
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<p>1 that this material contains fiber and -- I would</p> <p>2 have had to work on that for a while.</p> <p>3 Clearly we needed to warn the end user</p> <p>4 that use of this product in the wrong way could</p> <p>5 result in exposure to fiber, and we did not put</p> <p>6 that anywhere on our label. Instead what we did</p> <p>7 was we hid behind the OSHA regulators. "Oh, it</p> <p>8 won't cause problems with OSHA."</p> <p>9 Q. You were asked a number of questions</p> <p>10 about the limitations of PCM, phase contrast</p> <p>11 microscopy.</p> <p>12 Were there other types of fibers</p> <p>13 besides asbestos in the zonolite attic insulation?</p> <p>14 A. I don't believe we ever identified</p> <p>15 other fibers. What we had was a problem,</p> <p>16 I believe, in the counting technique, which if you</p> <p>17 had a piece of vermiculite on its end would have</p> <p>18 the characteristics that would meet the requirement</p> <p>19 of a fiber in the length we were making and so</p> <p>20 forth, but it wasn't truly a fiber, although it</p> <p>21 looked like — it met the qualifications for a</p> <p>22 fiber while looking — the microscopists would look</p> <p>23 at it and say: Gee, that meets the requirement for</p> <p>24 counting a fiber, but it really isn't a fiber.</p> <p>25 I can see that it's not a fiber. It's a piece of</p>	<p>1 may recall, at that time I was banned from working</p> <p>2 on CPD product.</p> <p>3 Q. You and I, we met before this</p> <p>4 deposition.</p> <p>5 Did you also talk to Grace's lawyer</p> <p>6 before the deposition?</p> <p>7 A. Yes, I did.</p> <p>8 Q. And were you cooperative with the Grace</p> <p>9 lawyers as well?</p> <p>10 A. I tried to to the extent that they --</p> <p>11 I mean, we did talk. I told them that I had agreed</p> <p>12 to come down here and the reasons why and I told</p> <p>13 them I would appreciate if they could make it also</p> <p>14 today because of timing.</p> <p>15 We talked a little bit about my</p> <p>16 testimony, things that I might talk about, what my</p> <p>17 opinions were. It was about — this was on a</p> <p>18 holiday, the President's Day holiday. I was in my</p> <p>19 office working that day and I agreed to take a</p> <p>20 conference call.</p> <p>21 Q. And how many Grace lawyers were on that</p> <p>22 call?</p> <p>23 A. Well, I believe there were two</p> <p>24 attorneys on the call, one from Delaware and one</p> <p>25 from Pittsburgh.</p>

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<p>1 Q. And in our conversations what have been  2 my instructions to you as far as information and  3 your testimony throughout this whole process?</p> <p>4 A. I would say that for the most part your  5 instructions to me have been to make sure that my  6 answers are complete, which I would do anyway.</p> <p>7 I always tell the truth. I would never  8 embellish on anything. I would just tell it like  9 it is. To the best of my ability I do. Sometimes  10 I can't recall everything.</p> <p>11 However, I think it's important that –  12 let me put it another way. Your conversations with  13 me, we went over the types of questions you were  14 going to ask, the exhibits and the types of  15 information we were going to elicit from these  16 exhibits, and occasionally you would ask me my  17 opinion about what these fiber levels – what they  18 meant and what my experience at Grace was in regard  19 to the flow of information within CPD in regard to  20 fiber issues.</p> <p>21 Q. And did I indicate to you that this was  22 a process for me for you to educate me on the  23 facts?</p> <p>24 MR. RESTIVO: Objection; leading.</p> <p>25 A. Yes. I think it was important for me</p>	<p>1 been mark as Hamilton Exhibit 28.  2 Is this one of the documents that you  3 referred to with Mr. Restivo that you and I went  4 over prior to the deposition?</p> <p>5 A. This is correct.</p> <p>6 Q. If you could identify that document for  7 the record.</p> <p>8 A. Yes. This is a document that I  9 produced on the 21st of December 1983, and the  10 title of it is Test Method for Determining the  11 Damagability and Subsequent Fiber Release of  12 Sprayed on Asbestos Containing Products, and this  13 was sent to Duecker, Eaton, Ericson, Shu and Yang  14 with a carbon copy to Bob Walsh.</p> <p>15 Q. And is this memo referencing one of the  16 meetings that you discussed in your earlier  17 testimony?</p> <p>18 A. That's correct.</p> <p>19 Q. And what happened here? What was the  20 situation?</p> <p>21 A. In the meeting I was concerned that we  22 were going to go into schools and we were going to  23 do air monitoring without any plan for determining  24 fiber release while the material was being  25 disturbed.</p>
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<p>1 to get this out to make sure that people understood  2 my opinion, where I came from, how I viewed this  3 work; and if that's an education process, then so  4 be it.</p> <p>5 Q. And you mentioned in your testimony in  6 Mr. Restivo's questioning that you and I reviewed  7 another document.</p> <p>8 MR. TURKEWITZ: Let me have this marked  9 as the next exhibit.</p> <p>10 (Plaintiff's Exhibit Hamilton 27, memo,  11 12/21/83, to H.C. Duecker, F. Eaton, R.C. Ericson,  12 L.S. Shu, J.C. Yang, from T.E. Hamilton, marked for  13 identification.)</p> <p>14 THE VIDEOTAPE SPECIALIST: There  15 concludes Tape No. 3 in the videotape deposition of  16 Thomas Edgar Hamilton. The time is approximately  17 4:40 p.m.</p> <p>18 Off the record.</p> <p>19 (Discussion off the record.)</p> <p>20 THE VIDEOTAPE SPECIALIST: Back on the  21 record. This is Tape No. 4 in the videotape  22 deposition of Thomas Edgar Hamilton. The time is  23 approximately 5:41.</p> <p>24 BY MR. TURKEWITZ:</p> <p>25 Q. Mr. Hamilton, I'm handing you what has</p>	<p>1 The sprayed on asbestos-containing  2 products were pretty tough. I don't know whether  3 you've ever dealt with them, but they're like  4 plaster of paris, like the same plaster that you  5 would have on a cast. Very tough, and they don't  6 break down very easily.</p> <p>7 I was concerned that we might want to  8 look at what would occur – what kind of fiber  9 release might we see if we actually damaged the  10 material as a student would or a janitor or  11 somebody doing something, hanging something on the  12 ceiling. Would they actually damage the ceiling  13 and would it have a release of fiber?</p> <p>14 If we wanted to evaluate, we needed a  15 test method. We needed a standardized method for  16 actually doing that type of work. I felt this was  17 an important idea, and I produced this memo and  18 sent it to these people. And I had actually set up  19 a meeting for them to attend, and the purpose of  20 the meeting was to develop an action plan and  21 preliminary test protocols to damage – can we set  22 up – we were doing test methods in attics. We  23 have a drop test for certain materials. We were  24 testing vermiculite products. I wasn't involved,  25 but I knew that that testing was going on.</p>

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<p>1        We had tested masonry fill. We had  2        tested the application of zonolite, monocote  3        materials. It just seemed obvious within the  4        school situation how were we going to defend  5        ourselves about asbestos fibers in schools if we  6        didn't go in there and see if it was possible for  7        this material to evenly release fibers?</p>	<p>1        Results in C-1 indicate no further exposure after  2        installation.</p>
<p>8        I think the analogy here and an  9        important work was I had done a lot of work on  10        monocote. We tested monocote. We were there when  11        they damaged it and we were there when they sprayed  12        it on, and we really didn't see any fiber release  13        in that material. In my head there really was  14        nothing wrong with the product — I didn't think it  15        was a problem, and that's what we saw in the  16        Greenville schools. I came back from that and I  17        said I think we should look at a method of testing.</p>	<p>3        Based on your testing and your  4        knowledge do you believe that to be true?</p>
<p>18        Now, after I sent out this memo all  19        kinds of crazy things happened. Dr. Duecker walked  20        into the meeting and said: I don't know why I'm  21        here. I don't want to talk about this, and he  22        left. Julie Yang talked about how this was  23        impossible and we couldn't set this up. I don't  24        think she attended.</p>	<p>5        A. Absolutely not. There is no further  6        exposures after installation? That's like somebody  7        going and taking a snapshot of a building and  8        saying the building is still there. I took a  9        picture of it nine years ago.</p>
<p>25        The whole thing fell apart. It never</p>	<p>10        That's crazy to say in here that there  11        is no opportunity for exposure after the  12        installation flies in the face of somebody going up  13        into the attic and doing something there. Somebody  14        doing a renovation, somebody running a phone line  15        through their attic, a cable for their cable TV,  16        putting in an HVAC system.</p>
	<p>17        If someone said: That's never going to  18        happen. It's a tomb and nobody is ever going to go  19        in there again and it's never going to be  20        disturbed, does this recognize that fact? I don't  21        think so. I think that this letter in Exhibit 28  22        points out my concern about those types of issues.</p>
	<p>23        MR. TURKEWITZ: Mr. Hamilton, I don't  24        have any further questions. Thank you.</p>
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<p>1        went any farther, and this turned out to be a  2        disaster. It never went any farther than this.</p>	<p>1        EXAMINATION</p>
<p>3        Q. And is this the same idea of testing a  4        product after installation, testing zonolite attic  5        insulation after renovation activities or  6        activities that would disturb the material?</p>	<p>2        BY MR. RESTIVO:</p>
<p>7        A. Of course. I felt the same way about  8        the air monitoring that's discussed in this letter  9        that's written by Chip Wood to the CPD.</p>	<p>3        Q. Mr. Hamilton, let's go back to  4        Deposition Exhibit 27.</p>
<p>10        Q. Are you referring to Exhibit 26?</p>	<p>5        What was your job position on or about</p>
<p>11        A. Yes. In Exhibit 26 there is absolutely  12        nothing in here that discusses what could happen to  13        the zonolite attic material in the event of a  14        renovation or a spill of this material into the  15        home.</p>	<p>6        September 29, 1982?</p>
<p>16        There is nothing in here that discusses  17        any kind of an exposure limit which we would apply  18        to a child or somebody walking up into that attic  19        and playing with the material. That isn't even  20        discussed here. What is discussed is federal  21        regulations.</p>	<p>7        A. I was the manager of industrial hygiene</p>
<p>22        Q. Let me refer you to Page 7 of the test  23        results, Footnote 5.</p>	<p>8        for the Industrial Chemicals Group.</p>
<p>24        A. Yes.</p>	<p>9        Q. What group if any was Ajax?</p>
<p>25        Q. It states in the second sentence down:</p>	<p>10        A. They were in the Construction Products</p>
	<p>11        Division of the Industrial Chemicals Group.</p>
	<p>12        Q. Did you have a part in the Construction</p>
	<p>13        Products Division?</p>
	<p>14        A. I don't believe that Steve Venuti was</p>
	<p>15        — I don't know what his date for being health and</p>
	<p>16        safety manager in the Construction Products</p>
	<p>17        Division was, but somewhere around this time.</p>
	<p>18        But to directly answer your question,</p>
	<p>19        there was no counterpart that had the title Manager</p>
	<p>20        of Industrial Hygiene for Construction Products</p>
	<p>21        Division.</p>
	<p>22        Q. As I read Hamilton Deposition</p>
	<p>23        Exhibit 27, you are not telling Mr. Gillott or</p>
	<p>24        Mr. Pollock that you were not the person to whom</p>
	<p>25        they should be asking this question; am I correct?</p>

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<p style="text-align: right;">Page 250</p> <p>1 on that?</p> <p>2 A. You used a double negative in there,</p> <p>3 and I would like you to rephrase that question.</p> <p>4 Q. I thought your testimony on redirect</p> <p>5 was that you weren't the person that was going to</p> <p>6 answer this question. Maybe I misunderstood you.</p> <p>7 A. That's correct. I say in there that —</p> <p>8 in the third paragraph in Exhibit 27 that I am not</p> <p>9 the person who was going to answer the question</p> <p>10 that I felt they were really asking.</p> <p>11 Q. I'm sorry. Then I misunderstood your</p> <p>12 prior answer.</p> <p>13 I thought your answer when</p> <p>14 Mr. Turkewitz was asking you questions was that you</p> <p>15 didn't have a role at this point in time in</p> <p>16 Construction Products Division and it wasn't your</p> <p>17 place to answer this question. That's what I</p> <p>18 thought you said. Again, maybe I misunderstood</p> <p>19 you.</p> <p>20 A. No. What I meant was that that type of</p> <p>21 question was not the type of question that anybody</p> <p>22 was going to step up to the plate and answer. We</p> <p>23 were going to leave that up to the lawyers because</p> <p>24 it was a legal issue in regard to what the</p> <p>25 appropriate label should be.</p>	<p style="text-align: right;">Page 252</p> <p>1 Q. Was it a true statement when you wrote</p> <p>2 on September 29, 1982: The results of the testing</p> <p>3 program show that dust exposures are significantly</p> <p>4 reduced by the screening, binding process, both in</p> <p>5 the plant during manufacture and in the attic where</p> <p>6 the product is used?</p> <p>7 A. That's true.</p> <p>8 Q. It was true then and it's true now?</p> <p>9 A. I believe it is.</p> <p>10 Q. Was it a true statement in September of</p> <p>11 1982: We feel that the label is much more accurate</p> <p>12 and the problems with end use of the product are</p> <p>13 greatly reduced now that the dust is controlled?</p> <p>14 A. That's true.</p> <p>15 Q. It was true then?</p> <p>16 A. Yes.</p> <p>17 Q. And it's true now?</p> <p>18 A. We don't make the product anymore, so</p> <p>19 it's not applicable.</p> <p>20 MR. RESTIVO: Thank you. That's all I</p> <p>21 have.</p> <p>22 EXAMINATION</p> <p>23 BY MR. TURKEWITZ:</p> <p>24 Q. Mr. Hamilton, you stated "we feel the</p> <p>25 label is much more accurate".</p>
<p style="text-align: right;">Page 251</p> <p>1 Q. Now, you do not indicate to Mr. Gillott</p> <p>2 anything about there may be release of the product</p> <p>3 into the living area? Didn't you just talk about</p> <p>4 it with Mr. Turkewitz?</p> <p>5 A. That's correct.</p> <p>6 Q. Did you say anything about children</p> <p>7 being in the attic?</p> <p>8 A. No, I do not.</p> <p>9 Q. Did you say anything to him about old</p> <p>10 people being in the attic?</p> <p>11 A. No.</p> <p>12 Q. Did you say anything to him about you</p> <p>13 ought to put some warning label on it that people</p> <p>14 know there is fibers in it?</p> <p>15 A. No.</p> <p>16 Q. Now, I believe you just told</p> <p>17 Mr. Turkewitz that you always tell the truth, and I</p> <p>18 assume that was true back on September 29, 1982.</p> <p>19 A. That's correct.</p> <p>20 Q. Was it a true statement that extensive</p> <p>21 air sampling was conducted by CPD engineering,</p> <p>22 F. Eaton?</p> <p>23 A. I think that the first set of exhibits</p> <p>24 here is proof of that answer; that yes, that's</p> <p>25 true.</p>	<p style="text-align: right;">Page 253</p> <p>1 Did you feel that the label was</p> <p>2 appropriate?</p> <p>3 A. No.</p> <p>4 MR. TURKEWITZ: Thank you.</p> <p>5 EXAMINATION</p> <p>6 BY MR. RESTIVO:</p> <p>7 Q. Mr. Hamilton, did you write to</p> <p>8 Mr. Gillott or to Mr. Pollock that the label was</p> <p>9 inappropriate?</p> <p>10 A. No, because if I had done that I would</p> <p>11 have been fired.</p> <p>12 Q. Did you tell them to talk to Mr. Venuti</p> <p>13 or someone else?</p> <p>14 A. I actually told them in Paragraph 3</p> <p>15 "only a lawyer is allowed to answer that question".</p> <p>16 Q. And so your true belief and the truth</p> <p>17 at the time in your opinion was you needed a label,</p> <p>18 but you didn't tell them that?</p> <p>19 A. No. What I said on here is true.</p> <p>20 I just didn't tell them everything. So I'm not</p> <p>21 answering your question.</p> <p>22 What I wrote on here is true, but what</p> <p>23 I wrote on here is misleading because if I had said</p> <p>24 what the truth was, I would have been fired. And</p> <p>25 the proof of that is whenever I talked about doing</p>

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<p style="text-align: right;">Page 254</p> <p>1 anything involving labeling or work in that 2 company, I had my hat handed to me and told not to 3 work on CPD anymore.</p> <p>4 Q. That upset you, didn't it?</p> <p>5 A. Well, it upset me. This is true.</p> <p>6 Q. And with respect to in-place testing of 7 monocote material, isn't it true that in fact you 8 did that at Traveler's Rest?</p> <p>9 A. You know, we may have done some work at 10 Traveler's Rest, but what I was thinking about in 11 the deposition was the work that I did at Anaree.</p> <p>12 Q. Did you take a mop handle and hit 13 material?</p> <p>14 A. That was in regard to the Greenville 15 schools case, and that was not monocote. That was 16 a sprayed on material.</p> <p>17 Q. Acoustical plaster material?</p> <p>18 A. Acoustical plaster in a school.</p> <p>19 Q. Asbestos-containing acoustical plaster 20 material?</p> <p>21 A. Right. And we did that after 22 consulting with Mark Stoller, the Grace attorney. 23 We said: Would you like us to do this? Because I 24 would be a consultant.</p> <p>25 We said: Look, we can do this if you</p>	<p style="text-align: right;">Page 255</p> <p>1 you?</p> <p>2 A. Yes.</p> <p>3 Q. And you discovered that hitting 4 acoustical plaster with a broom handle did not 5 create any respirable asbestos fibers in the air; 6 isn't that correct?</p> <p>7 A. I don't recall the results of the test.</p> <p>8 To tell you the truth, you may be correct. I don't 9 know.</p> <p>10 MR. RESTIVO: That's all I have.</p> <p>11 THE VIDEOTAPE SPECIALIST: This 12 concludes the videotape deposition of Thomas Edgar 13 Hamilton. The time is 5:56 p.m.</p> <p>14 Off the record.</p> <p>15 (Deposition concluded at 5:56 p.m.)</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>																																																																				
	<p style="text-align: right;">Page 257</p> <p>1 SIGNATURE OF DEPONENT</p> <p>2</p> <p>3 I, the undersigned, THOMAS E. HAMILTON, 4 do hereby certify that I have read the foregoing 5 deposition and find it to be a true and accurate 6 transcription of my testimony, with the following 7 corrections, if any:</p> <p>8</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">PAGE</th> <th style="width: 10%;">LINE</th> <th style="width: 10%;">CHANGE</th> <th style="width: 10%;">REASON</th> </tr> </thead> <tbody> <tr><td>10</td><td></td><td></td><td></td></tr> <tr><td>11</td><td></td><td></td><td></td></tr> <tr><td>12</td><td></td><td></td><td></td></tr> <tr><td>13</td><td></td><td></td><td></td></tr> <tr><td>14</td><td></td><td></td><td></td></tr> <tr><td>15</td><td></td><td></td><td></td></tr> <tr><td>16</td><td></td><td></td><td></td></tr> <tr><td>17</td><td></td><td></td><td></td></tr> <tr><td>18</td><td></td><td></td><td></td></tr> <tr><td>19</td><td></td><td></td><td style="text-align: right;">____</td></tr> <tr><td>20</td><td></td><td>THOMAS E. HAMILTON</td><td>Date</td></tr> <tr><td>21</td><td></td><td></td><td></td></tr> <tr><td>22</td><td></td><td></td><td></td></tr> <tr><td>23</td><td></td><td></td><td></td></tr> <tr><td>24</td><td></td><td></td><td></td></tr> <tr><td>25</td><td></td><td></td><td></td></tr> </tbody> </table>	PAGE	LINE	CHANGE	REASON	10				11				12				13				14				15				16				17				18				19			____	20		THOMAS E. HAMILTON	Date	21				22				23				24				25			
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1 CERTIFICATE OF REPORTER		
2		
3 I, Patricia L. Thompson, Registered		
4 Professional Reporter and Notary Public for the		
5 State of South Carolina at Large, do hereby certify		
6 that the foregoing transcript is a true, accurate,		
7 and complete record.		
8 I further certify that I am neither related		
9 to nor counsel for any party to the cause pending		
10 or interested in the events thereof.		
11 Witness my hand, I have hereunto affixed my		
12 official seal this 12th day of March 2003 at		
13 Charleston, Charleston County, South Carolina.		
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17		
18 Patricia L. Thompson		
Registered Professional		
19 Reporter		
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